

Committee on Resources

Testimony

STATEMENT of
WAYNE OWENS
Subcommittee on National Parks, and Public Lands
House Resources Committee
House of Representatives
April 23, 1998

Mr. Chairman:

It is a pleasure to join you in this historic old committee room, where so much legislation of importance to America's natural heritage has been written, and where you and I served together for six years.

My interest in Utah wilderness goes back many years, more than I care to enumerate, to days when, as a boy from Panquitch, I ran cows down the spectacular canyons of the Escalante. I was in love with those extraordinary red rocks, and that appreciation did not abate even when - chasing those half-wild cows - in summer I suffered from intense heat and putrid drinking water or in winter when I suffered from intense cold and had to build a fire and melt snow to have something to drink.

I was not like Ebenezer Bryce, the old cowboy pioneer who ran cows a hundred plus years ago in the Southern Utah National Park area which now bears his name. When visitors remarked to him that he had extraordinarily beautiful country in which to do his ranching, he is quoted as saying: "I don't know about that, but I can tell you this: It sure is one hell of a place to lose a cow."

To my great disappointment, in my home country of Southern Utah, opposition to the concept of wilderness and protecting those red rocks for their unique beauty - there is no other unspoiled red rock country like it in the entire world - is widespread and passionate. To be in Southern Utah and voice support for wilderness does not usually lead to debate, more often it gives rise to heated allegations of disloyalty to heritage and sometimes to questioned legitimacy of parentage.

When I served with you, Mr. Chairman, on that side of the dais some 9 years ago, I introduced H.R. 1500 for the first time, which we came to call America's Redrock Wilderness Act. I did so, not just because I loved the land and wanted to protect what remained of the country in its unspoiled condition, but because I believed its preservation was of great importance for our home state, for economic and biological reasons as well as because of its unique beauty.

I still do. And today, because of that commitment, I respectfully speak against H.R. 3625. And I do so for the same reasons I spoke against the Utah Congressional Delegation's wilderness bill in the last Congress. Like that legislation, H.R. 3625 is not a wilderness preservation bill, it is a wilderness development bill.

This bill eliminates from protection over 140,000 acres of Wilderness Study Areas in Emery and Carbon counties, areas that have been protected for two decades against man's exploitation. And it eliminates from consideration over 650,000 acres of wilderness which H.R. 1500 seeks to preserve. It dignifies with legal

protection R.S. 2477 rights-of-way, calling them roads and thereby permitting local development in some of the most pristine areas.

Yes, it designates wilderness, but at the same time it creates management problems and area destruction by permitting inconsistent uses inside that wilderness.

There follows my comments and analysis of the specific provisions of the bill:

Background

This bill covers only those portions of the San Rafael Swell, Desolation Canyon, and Labyrinth Canyon located within Emery and Carbon counties. As a result, the bill fragments these geographic regions, which extend beyond the county borders.

The San Rafael Swell is a great dome of uplifted sedimentary rock, fifty miles long and thirty miles wide, rising some 1500 feet above the surrounding desert. The San Rafael Reef is a band of steeply tilted slick rock cliffs which forms the eastern edge of the San Rafael Swell. Together, the Swell and the Reef form one of the scenic and geologic wonders of the world.

Desolation Canyon is one of the largest blocks of undeveloped federal land in the lower 48 states not designated as a wilderness or national park. The green River twists through the canyon which is up to 5000 feet deep, and the area provides perhaps the most important wildlife habitat in our state.

Labyrinth Canyon, and its spectacular side canyons, runs 46 miles along the green river, from Trin-Alcove Bend to Canyonlands National Park. The system provides a wonderful smooth water float for families.

These areas deserve the protection offered by federal designated wilderness.

Acreage Specifics

Section 221 of this bill establishes 130,718 acres of wilderness in the San Rafael area, and Section 301 establishes 276,750 acres of wilderness in the Desolation Canyon and Labyrinth Canyon areas. This is a paltry amount. H.R. 1500 proposes that over 1 million acres be protected in these two counties. H.R. 3625 fails to address over 650,000 acres of this wilderness.

Section 304 releases all areas now protected as Wilderness Study Areas in Carbon and Emery counties which are not designated wilderness under H.R. 3625. The acreage released totals 141,598 acres, or over 220 square miles. These are areas that have been protected for approximately two decades and H.R. 3625 rolls back the existing environmental protection.

The bill draws wilderness boundaries on county lines, which means one side of Desolation and Labyrinth canyons is designated wilderness, while the other side is left unconsidered. An invisible line is drawn across Horseshoe Canyon, where the downstream side is designated wilderness, but the upstream is not, only because that is where the county line lays on a map.

Rights of Way

The Act validates RS 2477 ROW assertions within WSAs and proposed wilderness.

Section 408(c) grants a 100 foot set back on either side of class D roads in areas designated wilderness, unless otherwise depicted on a map. "Class D" is the designation for un-maintained routes which are claimed under RS 2477.

Emery and Carbon counties claimed class D roads inside WSAs on maps created in the late 1970's, and have claimed addition class D's since then. For example, the counties have claimed there are class D roads running down the Price river as it travels through the Book Cliffs, and alongside the Green river in Desolation Canyon upstream from Range creek. No such roads exist, and yet it appears that this bill would legitimize these claims.

Management Provisions

H.R. 3625 also includes a host of troublesome management provisions for the areas that are designated wilderness. For example, § 408(d) states motorized access will be allowed within wilderness for repair, modification, etc., of existing structures and improvements related to water and grazing resources, where "necessarily, customarily or historically employed." This suggests that new motorized use could be allowed, even if it has never occurred historically, and restricts Secretary's current authority to control motorized use to prevent undue and unnecessary damage, beyond current authority.

§ 207 states nothing in Act shall be construed as prohibiting Secretary from authorizing installation of communications equipment in conservation area for public safety purposes, and presumably this means within areas designated wilderness as well.

§ 302 states wilderness is subject to valid existing rights and the "full exercise of those rights." Valid existing rights should of course be protected, but this language appears to restrict BLM's authority to control the manner in which VERs are exercised.

§ 407(a) states no reserved water rights accrue with wilderness designation and § 407(b) prohibits U.S. from using eminent domain to acquire water rights. Although the provision purports to allow BLM to acquire water rights through state legal process, Utah water law does not recognize wilderness as a "beneficial use" that justifies recognition of a water right. In addition, only two state agencies may apply for an instream flow. Therefore, the provision provides no basis for a water right for BLM designated wilderness.

§ 407(d) states wilderness does not preclude modification or improvement of existing water projects, or the access for such projects. This would allow small water catchments to be converted into reservoirs.

It is worth mentioning that other portions of the bill suggest protection that must be given scrutiny. For example, Section 202 establishes a 630,000 acre National Conservation Area, which is withdrawn from location under general mining laws. However, bill proponents have excluded from NCA the portion of the Upper Muddy Creek and Devils Canyon proposed wilderness where gypsum mining is now proposed. Protection is offered, but not where it is needed.

Every time we have protected the environment in Utah, whether as a national park, national monument, or wilderness, it is recognized in the long run as a wise decision. These areas deserve the benefit of the lessons taught by history, and deserve to be given real protection of real wilderness. For that reason, I must oppose this bill.

####